



State of Wisconsin
1997 - 1998 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,
TO 1997 SENATE BILL 39**

January 22, 1998 – Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT** *to renumber* 346.49 (2) (b); *to renumber and amend* 346.49 (2) (a); *to*
2 *amend* 59.25 (3) (f) 2., 59.40 (2) (m), 195.28 (2), 195.28 (3), 346.62 (1) (d), 346.65
3 (5m), 973.05 (1), 973.05 (2) and 973.07; and *to create* 20.395 (2) (gj), 25.40 (1)
4 (ij), 343.30 (2j), 343.32 (2) (bd), 346.49 (2m) (a), 346.495, 346.62 (2m), 346.65
5 (4m), 346.65 (4r) and 814.60 (2) (eg) of the statutes; **relating to:** stopping at
6 railroad crossings, reckless driving at railroad crossings, creating a railroad
7 crossing improvement assessment, making an appropriation and providing
8 penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

9 **SECTION 1.** 20.395 (2) (gj) of the statutes is created to read:
10 20.395 (2) (gj) *Railroad crossing protection installation and maintenance, state*
11 *funds.* All moneys received from railroad crossing improvement assessments

1 required under ss. 346.495 and 346.65 (4r), for the purpose of railroad crossing
2 protection installation and maintenance under s. 195.28 (2) and (3).

3 **SECTION 2.** 25.40 (1) (ij) of the statutes is created to read:

4 25.40 (1) (ij) All moneys forwarded by county treasurers from railroad crossing
5 improvement assessments required under ss. 346.495 and 346.65 (4r), as provided
6 in s. 59.25 (3) (f) 2.

7 **SECTION 3.** 59.25 (3) (f) 2. of the statutes, as affected by 1997 Wisconsin Act 27,
8 section 2160p, is amended to read:

9 59.25 (3) (f) 2. For all court imposed fines and forfeitures required by law to be
10 deposited in the state treasury, the amounts required by s. 165.87 for the penalty
11 assessment surcharge, the amounts required by s. 165.755 for the crime laboratories
12 and drug law enforcement assessment, the amounts required by s. 167.31 (5) for the
13 weapons assessment, the amounts required by s. 973.045 for the crime victim and
14 witness assistance surcharge, the amounts required by s. 938.34 (8d) for the
15 delinquency victim and witness assistance surcharge, the amounts required by s.
16 973.046 for the deoxyribonucleic acid analysis surcharge, the amounts required by
17 s. 961.41 (5) for the drug abuse program improvement surcharge, the amounts
18 authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055 (1) for the domestic abuse
19 assessment, the amounts required by s. 253.06 (4) (c) for the enforcement assessment
20 under the supplemental food program for women, infants and children, the amounts
21 required by ss. 346.495 and 346.65 (4r) for the railroad crossing improvement
22 assessment, the amounts required by s. 346.655 (2) (a) and (b) for the driver
23 improvement surcharge, the amounts required by s. 102.85 (4) for the uninsured
24 employer assessment, the amounts required by s. 299.93 for the environmental
25 assessment, the amounts required by s. 29.9965 for the wild animal protection

1 assessment, the amounts required by s. 29.997 for the natural resources assessment
2 surcharge, the amounts required by s. 29.9967 for the fishing shelter removal
3 assessment, the amounts required by s. 350.115 for the snowmobile registration
4 restitution payment and the amounts required by s. 29.998 for natural resources
5 restitution payments, transmit to the state treasurer a statement of all moneys
6 required by law to be paid on the actions entered during the preceding month on or
7 before the first day of the next succeeding month, certified by the county treasurer's
8 personal signature affixed or attached thereto, and at the same time pay to the state
9 treasurer the amount thereof.

10 **SECTION 4.** 59.40 (2) (m) of the statutes, as affected by 1997 Wisconsin Act 27,
11 section 2163p, is amended to read:

12 59.40 (2) (m) Pay monthly to the treasurer for the use of the state the state's
13 percentage of the fees required to be paid on each civil action, criminal action and
14 special proceeding filed during the preceding month and pay monthly to the
15 treasurer for the use of the state the percentage of court imposed fines and forfeitures
16 required by law to be deposited in the state treasury, the amounts required by s.
17 165.87 (2) (b) for the penalty assessment surcharge, the amounts required by s.
18 165.755 for the crime laboratories and drug law enforcement assessment, the
19 amounts required by s. 167.31 (5) for the weapons assessment, the amounts required
20 by s. 973.045 for the crime victim and witness assistance surcharge, the amounts
21 required by s. 938.34 (8d) for the delinquency victim and witness assistance
22 surcharge, the amounts required by s. 973.046 for the deoxyribonucleic acid analysis
23 surcharge, the amounts required by s. 961.41 (5) for the drug abuse program
24 improvement surcharge, the amounts authorized by s. 971.37 (1m) (c) 1. or required
25 by s. 973.055 for the domestic abuse assessment surcharge, the amounts required by

1 s. 253.06 (4) (c) for the enforcement assessment under the supplemental food
2 program for women, infants and children, the amounts required by ss. 346.495 and
3 346.65 (4r) for the railroad crossing improvement assessment, the amounts required
4 by s. 346.655 for the driver improvement surcharge, the amounts required by s.
5 102.85 (4) for the uninsured employer assessment, the amounts required by s. 299.93
6 for the environmental assessment, the amounts required under s. 29.9965 for the
7 wild animal protection assessment, the amounts required under s. 29.997 (1) (d) for
8 the natural resources assessment surcharge, the amounts required by s. 29.9967 for
9 the fishing shelter removal assessment, the amounts required by s. 350.115 for the
10 snowmobile registration restitution payment and the amounts required under s.
11 29.998 (1) (d) for the natural resources restitution payments. The payments shall
12 be made by the 15th day of the month following receipt thereof.

13 **SECTION 5.** 195.28 (2) of the statutes is amended to read:

14 195.28 (2) INSTALLATION COSTS. The cost of any signal or other crossing
15 protection device which is ordered installed under sub. (1) and the cost of installing
16 any such device shall be paid by the department from the appropriations under s.
17 20.395 (2) (gj), (gr) and (gx).

18 **SECTION 6.** 195.28 (3) of the statutes is amended to read:

19 195.28 (3) MAINTENANCE COSTS. Except as otherwise provided in this
20 subsection, the cost of maintaining crossing protection devices ordered under sub. (1)
21 shall be the responsibility of the railroad or railroad historical society. Any railroad
22 company or railroad historical society that incurs expenses for maintenance of
23 signals or other safety devices may file a claim for reimbursement with the
24 department regardless of the date of installation of the signals or devices. At the
25 close of each fiscal year the department shall reimburse claimants under this

1 subsection for 50% of the costs, as determined by the office, incurred for maintenance
2 of railroad crossing protection devices from the ~~appropriation~~ appropriations under
3 s. 20.395 (2) ~~(gj) and~~ (gq). If the amount in the ~~appropriation~~ appropriations under
4 s. 20.395 (2) ~~(gj) and~~ (gq) is not adequate to fund maintenance reimbursement under
5 this subsection, the amount shall be prorated in the manner determined by the office.

6 **SECTION 7.** 343.30 (2j) of the statutes is created to read:

7 343.30 (2j) (a) A court may revoke a person's operating privilege upon the
8 person's first conviction for violating s. 346.44 or 346.62 (2m) and shall revoke a
9 person's operating privilege upon the person's 2nd or subsequent conviction within
10 a 5-year period for violating s. 346.44 or 346.62 (2m). The revocation shall be for a
11 period of 6 months. For purposes of determining prior convictions for purposes of this
12 paragraph, the 5-year period shall be measured from the dates of the violations that
13 resulted in the convictions. Each conviction under s. 346.44 or 346.62 (2m) shall be
14 counted, except that convictions under s. 346.44 and 346.62 (2m) arising out of the
15 same incident or occurrence shall be counted as a single conviction.

16 **SECTION 8.** 343.32 (2) (bd) of the statutes is created to read:

17 343.32 (2) (bd) The scale adopted by the secretary shall assess, for each
18 conviction, 6 demerit points for a violation of s. 346.44 or 346.62 (2m), except that
19 convictions under s. 346.44 and 346.62 (2m) arising out of the same incident or
20 occurrence shall be counted as a single conviction.

21 **SECTION 9.** 346.49 (2) (a) of the statutes is renumbered 346.49 (2) and amended
22 to read:

23 346.49 (2) ~~Unless otherwise provided in par. (b), any~~ Any person violating s.
24 346.44, 346.45, 346.455 or 346.48 may be required to forfeit not less than \$30 nor
25 more than \$300.

1 **SECTION 10.** 346.49 (2) (b) of the statutes is renumbered 346.49 (2m) (b).

2 **SECTION 11.** 346.49 (2m) (a) of the statutes is created to read:

3 346.49 **(2m)** (a) Unless otherwise provided in par. (b), any person violating s.
4 346.44 may be fined not more than \$1,000.

5 **SECTION 12.** 346.495 of the statutes is created to read:

6 **346.495 Railroad crossing improvement assessment.** (1) If a court
7 imposes a fine under s. 346.49 (2m) (a) for a violation of s. 346.44, the court shall also
8 impose a railroad crossing improvement assessment equal to 50% of the amount of
9 the fine.

10 (2) If a fine is suspended in whole or in part, the railroad crossing improvement
11 assessment shall be reduced in proportion to the suspension.

12 (3) The clerk of the circuit court shall collect and transmit to the county
13 treasurer the railroad crossing improvement assessment as required under s. 59.40
14 (2) (m). The county treasurer shall then pay the state treasurer as provided in s.
15 59.25 (3) (f) 2. The state treasurer shall deposit all amounts received under this
16 subsection in the transportation fund to be appropriated under s. 20.395 (2) (gj).

17 **SECTION 13.** 346.62 (1) (d) of the statutes is amended to read:

18 346.62 (1) (d) "Vehicle" has the meaning designated in s. 939.22 (44), except
19 that for purposes of sub. (2m) "vehicle" has the meaning given in s. 340.01 (74).

20 **SECTION 14.** 346.62 (2m) of the statutes is created to read:

21 346.62 **(2m)** No person may recklessly endanger the safety of any person by
22 driving a vehicle on or across a railroad crossing in violation of s. 346.44 (1) or
23 through, around or under any crossing gate or barrier at a railroad crossing in
24 violation of s. 346.44 (2).

25 **SECTION 15.** 346.65 (4m) of the statutes is created to read:

1 346.65 (4m) Except as provided in sub. (5m), any person violating s. 346.62
2 (2m) shall be fined not less than \$300 nor more than \$1,000.

3 **SECTION 16.** 346.65 (4r) of the statutes is created to read:

4 346.65 (4r) (a) If a court imposes a fine under sub. (4m) for a violation of s.
5 346.62 (2m), the court shall also impose a railroad crossing improvement assessment
6 equal to 50% of the amount of the fine.

7 (b) If a fine is suspended in whole or in part, the railroad crossing improvement
8 assessment shall be reduced in proportion to the suspension.

9 (c) The clerk of the circuit court shall collect and transmit to the county
10 treasurer the railroad crossing improvement assessment as required under s. 59.40
11 (2) (m). The county treasurer shall then pay the state treasurer as provided in s.
12 59.25 (3) (f) 2. The state treasurer shall deposit all amounts received under this
13 paragraph in the transportation fund to be appropriated under s. 20.395 (2) (gj).

14 **SECTION 17.** 346.65 (5m) of the statutes is amended to read:

15 346.65 (5m) If an operator of a vehicle violates s. 346.62 (2) to (4) where persons
16 engaged in work in a highway maintenance or construction area are at risk from
17 traffic, any applicable minimum and maximum forfeiture or fine specified in sub. (1),
18 (3), (4m) or (5) for the violation shall be doubled.

19 **SECTION 18.** 814.60 (2) (eg) of the statutes is created to read:

20 814.60 (2) (eg) Railroad crossing improvement assessment imposed by s.
21 346.495 or 346.65 (4r);

22 **SECTION 19.** 973.05 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
23 is amended to read:

24 973.05 (1) When a defendant is sentenced to pay a fine, the court may grant
25 permission for the payment of the fine, of the penalty assessment imposed by s.

1 165.87, the jail assessment imposed by s. 302.46 (1), the crime victim and witness
2 assistance surcharge under s. 973.045, the crime laboratories and drug law
3 enforcement assessment imposed by s. 165.755, any applicable deoxyribonucleic acid
4 analysis surcharge under s. 973.046, any applicable drug abuse program
5 improvement surcharge imposed by s. 961.41 (5), any applicable domestic abuse
6 assessment imposed by s. 971.37 (1m) (c) 1. or 973.055, any applicable railroad
7 crossing improvement assessment imposed by s. 346.495 or 346.65 (4r), any
8 applicable driver improvement surcharge imposed by s. 346.655, any applicable
9 enforcement assessment imposed by s. 253.06 (4) (c), any applicable weapons
10 assessment imposed by s. 167.31, any applicable uninsured employer assessment
11 imposed by s. 102.85 (4), any applicable environmental assessment imposed by s.
12 299.93, any applicable wild animal protection assessment imposed by s. 29.9965, any
13 applicable natural resources assessment imposed by s. 29.997 and any applicable
14 natural resources restitution payment imposed by s. 29.998 to be made within a
15 period not to exceed 120 days. If no such permission is embodied in the sentence, the
16 fine, the penalty assessment, the jail assessment, the crime victim and witness
17 assistance surcharge, the crime laboratories and drug law enforcement assessment,
18 any applicable deoxyribonucleic acid analysis surcharge, any applicable drug abuse
19 program improvement surcharge, any applicable domestic abuse assessment, any
20 applicable railroad crossing improvement assessment, any applicable driver
21 improvement surcharge, any applicable enforcement assessment, any applicable
22 weapons assessment, any applicable uninsured employer assessment, any
23 applicable environmental assessment, any applicable wild animal protection
24 assessment, any applicable natural resources assessment and any applicable
25 natural resources restitution payment shall be payable immediately.

1 **SECTION 20.** 973.05 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
2 is amended to read:

3 973.05 (2) When a defendant is sentenced to pay a fine and is also placed on
4 probation, the court may make the payment of the fine, the penalty assessment, the
5 jail assessment, the crime victim and witness assistance surcharge, the crime
6 laboratories and drug law enforcement assessment, any applicable deoxyribonucleic
7 acid analysis surcharge, any applicable drug abuse program improvement
8 surcharge, any applicable domestic abuse assessment, any applicable uninsured
9 employer assessment, any applicable railroad crossing improvement assessment,
10 any applicable driver improvement surcharge, any applicable enforcement
11 assessment under s. 253.06 (4) (c), any applicable weapons assessment, any
12 applicable environmental assessment, any applicable wild animal protection
13 assessment, any applicable natural resources assessment and any applicable
14 natural resources restitution payments a condition of probation. When the
15 payments are made a condition of probation by the court, payments thereon shall be
16 applied first to payment of the penalty assessment until paid in full, shall then be
17 applied to the payment of the jail assessment until paid in full, shall then be applied
18 to the payment of part A of the crime victim and witness assistance surcharge until
19 paid in full, shall then be applied to part B of the crime victim and witness assistance
20 surcharge until paid in full, shall then be applied to the crime laboratories and drug
21 law enforcement assessment until paid in full, shall then be applied to the
22 deoxyribonucleic acid analysis surcharge until paid in full, shall then be applied to
23 the drug abuse improvement surcharge until paid in full, shall then be applied to the
24 railroad crossing improvement assessment until paid in full, shall then be applied
25 to payment of the driver improvement surcharge until paid in full, shall then be

1 applied to payment of the domestic abuse assessment until paid in full, shall then
2 be applied to payment of the natural resources assessment if applicable until paid
3 in full, shall then be applied to payment of the natural resources restitution payment
4 until paid in full, shall then be applied to the payment of the environmental
5 assessment if applicable until paid in full, shall then be applied to the payment of the
6 wild animal protection assessment if applicable until paid in full, shall then be
7 applied to payment of the weapons assessment until paid in full, shall then be
8 applied to payment of the uninsured employer assessment until paid in full, shall
9 then be applied to payment of the enforcement assessment under s. 253.06 (4) (c), if
10 applicable, until paid in full and shall then be applied to payment of the fine.

11 **SECTION 21.** 973.07 of the statutes, as affected by 1997 Wisconsin Act 27, is
12 amended to read:

13 **973.07 Failure to pay fine or costs or to comply with certain**
14 **community service work.** If the fine, costs, penalty assessment, jail assessment,
15 crime victim and witness assistance surcharge, crime laboratories and drug law
16 enforcement assessment, applicable deoxyribonucleic acid analysis surcharge,
17 applicable drug abuse program improvement surcharge, applicable domestic abuse
18 assessment, applicable railroad crossing improvement assessment, applicable
19 driver improvement surcharge, applicable enforcement assessment under s. 253.06
20 (4) (c), applicable weapons assessment, applicable uninsured employer assessment,
21 applicable environmental assessment, applicable wild animal protection
22 assessment, applicable natural resources assessment and applicable natural
23 resources restitution payments are not paid or community service work under s.
24 943.017 (3) is not completed as required by the sentence, the defendant may be
25 committed to the county jail until the fine, costs, penalty assessment, jail

1 assessment, crime victim and witness assistance surcharge, crime laboratories and
2 drug law enforcement assessment, applicable deoxyribonucleic acid analysis
3 surcharge, applicable drug abuse program improvement surcharge, applicable
4 domestic abuse assessment, applicable railroad crossing improvement assessment,
5 applicable driver improvement surcharge, applicable enforcement assessment
6 under s. 253.06 (4) (c), applicable weapons assessment, applicable uninsured
7 employer assessment, applicable environmental assessment, applicable wild animal
8 protection assessment, applicable natural resources assessment or applicable
9 natural resources restitution payments are paid or discharged, or the community
10 service work under s. 943.017 (3) is completed, for a period fixed by the court not to
11 exceed 6 months.

12 **SECTION 22. Initial applicability.**

13 (1) This act first applies to offenses committed on the effective date of this
14 subsection, but does not preclude the counting of other convictions as prior
15 convictions for purposes of sentencing a person, suspending or revoking a person's
16 operating privilege, disqualifying a person from operating a commercial motor
17 vehicle or determining eligibility for authorization to operate certain vehicles.

18 (END)